

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

BRIAN MORRIS, JAMES HARRIS,
GENTILE TABOR, and MARCUS
WASHINGTON,

Plaintiffs,

vs.

VILLAGE OF ROBBINS,
a municipality, ROBBINS CHIEF OF
POLICE JOHNNY HOLMES, in
his official capacity and his individual
capacity; ROBBINS POLICE OFFICER
CARL SCOTT, Star No. 358, in his
official capacity and his individual
capacity; ROBBINS POLICE OFFICER
DION KIMBLE, Star No. 323 in his official
capacity and his individual capacity;
ROBBINS POLICE OFFICER ANTHONY
HOSEY, Star No. 311, in his official
capacity and his individual capacity,
ROBBINS POLICE OFFICER TYRUS
LESTER, Star No. 703, in his official
capacity and his individual capacity,

Defendants.

Case No.: 01 C 6799

Judge Manning

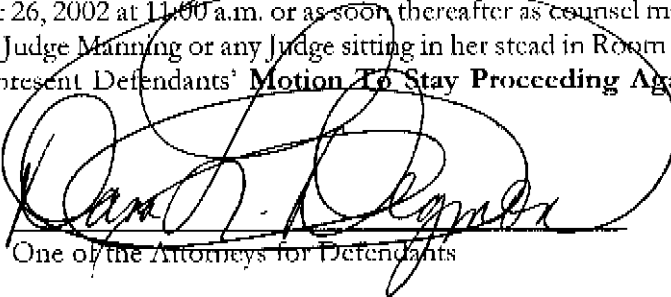
Magistrate Judge Levin

FILED
NOV 19 2002
MICHAEL W. DEUTSCH
CLERK U.S. DISTRICT COURT

To: Michael J. Levinsohn
HOLZMAN & LEVINSOHN
53 West Jackson Boulevard
Suite 1350
Chicago, Illinois 60604

NOTICE OF MOTION

Please take notice that on November 26, 2002 at 11:00 a.m. or as soon thereafter as counsel may be heard, we shall appear before the Honorable Judge Manning or any Judge sitting in her stead in Room 2125 at 219 S. Dearborn, Chicago, Illinois and present Defendants' **Motion To Stay Proceeding Against Officer Tyrus Lester** attached hereto.

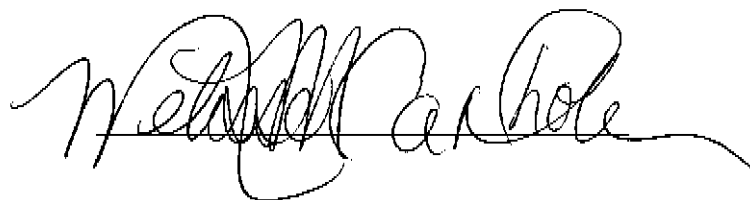

One of the Attorneys for Defendants

BOLLINGER, RUBERRY & GARVEY
500 W. Madison, Suite 2300
Chicago, Illinois 60661
(312) 466-8000

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CERTIFICATE OF SERVICE

I, ***Melissa M. Canchola***, a non-attorney, under 735 ILCS 5/1-109, by penalty of perjury swear under oath and state that I served this notice by faxing a copy to the above attorney(es) at their above address(es) and before 5:00 p.m. on November 19, 2002.

A handwritten signature in black ink, reading "Melissa M. Canchola". The signature is written in a cursive style with a horizontal line extending from the end of the name.

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

BRIAN MORRIS, JAMES HARRIS,
GENTILE TABOR, and MARCUS
WASHINGTON,

Plaintiffs,

vs.

VILLAGE OF ROBBINS,
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POLICE JOHNNY HOLMES, in
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ROBBINS POLICE OFFICER TYRUS
LESTER, Star No. 703, in his official
capacity and his individual capacity,

Defendants.

Case No.: 01 C 6799

Judge Manning

Magistrate Judge Levin

FILED

NOV 19 2002

MICHAEL W. DILLON
CLERK, U.S. DISTRICT COURT

MOTION TO STAY PROCEEDINGS AGAINST OFFICER TYRUS LESTER

NOW COMES Defendant, Police Officer Tyrus Lester, by and through his attorneys, BOLLINGER RUBERRY & GARVEY, and moves this honorable Court to stay proceedings against police Officer Tyrus Lester pursuant to the Soldiers' and Sailor's Civil Relief Act of 1940 (50 App. U.S.C.A. § 510), and States as follows:

1. Defendant, Police Officer Tyrus Lester, is a member of the Village of Robbins Police Department since on or about March 29, 1999.
2. On December 16, 1999, Officers Lester, Hosey, Scott and Kimble were assigned to street-level narcotics enforcement.

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3. On December 16, 1999, Officer Lester had not yet exited the police surveillance van when plaintiff, Brian Morris was shot by a fellow officer.


4. On August 8, 2001, plaintiffs filed a claim against Officer Tyrus Lester in both his official and individual capacities.

5. Officer Tyrus Lester was called Up to Active Duty effective January 4, 2002, in support of Operation Noble Eagle and Enduring Freedom. A copy of the Department of the Army's Memorandum for Employers of Soldiers of a Co., 17th PSYOP BN Soldiers is attached hereto and incorporated herein as Exhibit A.

6. Officer Tyrus Lester is not available to participate in his own defense.

WHEREFORE, Defendant Police Officer Tyrus Lester prays this honorable court grant his Motion to Stay Proceedings against him in both his official and individual capacities.

Respectfully submitted,
BOLLINGER, RUBERRY & GARVEY



One of the Attorneys for Defendant
George P. Smyrniotis

George J. Manos
George P. Smyrniotis
Dana L. Degmon
Bollinger, Ruberry & Garvey
500 W Madison, Suite 2300
Chicago, Illinois 60661
(312) 466-8000
Atty No: 13507



DEPARTMENT OF THE ARMY
ALPHA COMPANY, 17TH PSYCHOLOGICAL OPERATIONS BATTALION
20612 ARSENAL ROAD
ELWOOD, ILLINOIS 60412-0612

REPLY TO
ATTENTION OF:

AACP-POC-C-A

7 December, 2001

MEMORANDUM FOR Employers of Soldiers of A CO., 17th PSYOP BN

SUBJECT: Call Up to Active Duty Status of A CO., 17th PSYOP BN Soldiers


1. Dear Sir or Madam: this memorandum is to notify you that as a member of the United States Army Reserve, the below named soldier(s) has/have been ordered to active duty effective January 4th, 2002. When the soldier(s) is/are discharged from active duty, the soldier(s) intends to exercise the right to restoration of employment in accordance with Title 38 of the United States Code, Chapter 43, Veterans Reemployment Rights.

E5	Lester, Tyrus	323-62-8378
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2. Many employers have decided to continue some employee benefits to reservists who are called to active duty during this National Emergency. Although the continuation of these benefits are voluntary, some employers have indicated a willingness to make up the difference between the soldier's military and civilian income for a period of time, or to continue to provide health and other insurance benefits. Please advise the soldier(s) of any employment benefits that might be available to the family during their absence.

3. We regret any inconvenience you may experience due to the manpower shortfall, but the soldier(s) skills are required in support of the United States Army Reserve. This company and its command wishes to express its gratitude in advance for the difficulties the loss of this or these employee(s) will have upon your business.

4. If you have any questions regarding your employees' service in the United States Army Reserve, please feel free to call. Point of contact for this memorandum is the undersigned @ (815) 23-6764, Ext. 2.


MATHSON, JOHN M.
CPT, AG
COMMANDING

DEFENDANT'S
EXHIBIT

A

ALL-STATE® INTERNATIONAL

LESTER

Dec 20 01 04:08p

DEPARTMENT OF THE ARMY
HEADQUARTERS, UNITED STATES ARMY
SPECIAL OPERATIONS COMMAND
FORT BRAGG, NORTH CAROLINA 28310

ORDER R35288

18 December 2001

LESTER TYRUS AREMAINE 323628378 SSG
17 PO BN, (WSQQA0)
2709 MCDONOUGH ST
JOLIET, IL 60436-9755

You are ordered to active duty as a member of your Reserve Component Unit for the period indicated unless sooner released or unless extended. Proceed from your current location in sufficient time to report by the date specified. You enter active duty upon reporting to unit home station.

Report to: 17 POB, (WSQQU1)
2709 MCDONOUGH ST
JOLIET, IL 60436-9755 on 1/4/02

Report to: MUIC, Fort Bragg NC on 1/7/02

Period of Active Duty: 365 days; not to exceed two years

Purpose: In Support of Operation NOBLE EAGLE AND ENDURING FREEDOM.

Mobilization Category: V

Additional instructions:

(a) Sure Pay is mandatory. Soldier must bring the appropriate documentation to support the requirement to authorize sure pay to the bank.

(b) Early reporting is not authorized.

(c) Unaccompanied baggage shipment is not authorized.

(d) Movement of Household goods and dependents is not authorized.

(e) Travel by privately owned vehicle (POV) is authorized.

(f) Rental car is not authorized.

(g)

Commercial air is authorized.

(h) Soldiers that are deployed for more than 90 days are authorized temporary storage of household goods as provided by para U4770-B, Joint Federal travel Regulation. Storage of POV is also authorized. Contact the local transportation office for assistance (not in connection with PCS shipment).

(i) Excess accompanied baggage up to 200 pounds is authorized.

(j) Bring with you complete military clothing bag and appropriate personal items.

Shipment of individual military weapons is authorized. Shipment of privately owned weapons is not authorized. All weapons and sensitive items on military aircraft will be transported IAW AR 190-11. Travel on commercial aircraft with weapons or sensitive items must have prior approval of Commanding General, USASOC. Individuals traveling on commercial aircraft must have weapons and sensitive items type and serial numbers listed on individual travel orders.

(k) Soldier will not handcarry Military Personnel Records Jacket (MPRJ), health and dental, training, and clothing records, if moving as an individual. Records will be moved per AR 600-8-101, Chapter 5.

(l) Bring copies of rental or mortgage agreement, marriage certificate, birth certificate, birth certificate(s) of natural children, or documentation of dependency or child support. Soldiers are responsible for reporting changes in BAQ, BAS, VHA, or COLA status to the Unit Administrator.

(m) Bring copies of family care plan, wills, powers of attorney, and any other documentation affecting the soldier's pay or status.

(n) Personnel requiring eye correction will bring two pairs of eyeglasses and eye inserts for a protective mask.

Dec 20 01 04:03P

A CO, 17TH PSYOP BN

081504260100

ORDER R35288 HQ, USASOC, FORT BRAGG, NC 28310 12/18/01
 (o) Government quarters and mess will be used.
 (p) Under the Uniformed Services Employment and Reemployment Act (USERRA), service members involuntarily or voluntarily called to active duty must provide either written or verbal advance notification of their requirement to perform military service to their employer.
 (q) Do not access into Active Army End Strength per section 138, Title 10, USC. Soldier will not be placed on the active duty list (sections 641(1)(D) and 620(A), Title 10, USC).
 (r) Send TTAD efficiency reports to the Commander, AR-PERSCOM, ATTN: DARP-PRE-E/O, 9700 Page Boulevard, St. Louis, MO 63132-5200.

DUTY LOCATION IN THEATRE: ,

FOR ARMY USE:

AUTHORITY: Title 10, USC 12304; HQDA Mob Ord 057-02 dated 13 DEC 01

Accounting Classification:

FY 2002

MPA FUND CITE FOR OFFICER PERSONNEL 210 2010 01-1100 P1A10.00 PAMP S99999

MPA FUND CITE FOR ENLISTED PERSONNEL 210 2010 01-1100 P2A20.00 PAMP S99999

9720100.56A 0 50 5063 012974.8K 21T2/21T1 NNN9999TM00000 QW62 S12102

LES8378TC35288

FY 2003

MPA FUND CITE FOR OFFICER PERSONNEL 211 2010 01-1100 P1A10.00 PAMP S99999

MPA FUND CITE FOR ENLISTED PERSONNEL 211 2010 01-1100 P2A20.00 PAMP S99999

9730100.56A 0 50 5063 012974.8K 21T2/21T1 NNN9999TM00000 QW62 S12102

LES8378TC35288

MDC: 71PM

SEX: M

Date of Birth: 19740804

Home of Record: 11655 S PULASKI RD APT 1A

ALSIP, IL 608034643

AOC/PMOS: 81L

DOR: 20011201

PEBD: 19940316

MRD/ETS: 20070907

Security Clearance: SECRET

Component:

Format: 162

FOR THE COMMANDER:

* OFFICIAL *

* FORT BRAGG NC *

- R. ALAN KING

Chief, Reserve Personnel

Division

DISTRIBUTION:

1 - Files

1 - Cdr, 17 PO BN

1 - USASOC, ATTN: AOOP

1 - USASOC, ATTN: AORM

1 - Cdr, USACAPOC

1 - Cdr, MUIC, Fort Bragg NC

Dec 20 01 04:09p

A CO, 17TH PSYOP BN

(815) 423-6762

DEPARTMENT OF THE ARMY
HEADQUARTERS, UNITED STATES ARMY
SPECIAL OPERATIONS COMMAND
FORT BRAGG, NORTH CAROLINA 28310

ORDER 35247

18 December 2001

LESTER TYRUS AREMAINE 323628378
17 POB (WSQQU1) FT BRAGG, NC

SSG

You are attached and / or deployed as shown below and are to return to your permanent station upon completion of the duties in support of this operation. You will submit a reviewed travel voucher for this travel to the finance office within 5 working days after return to home station.

Attached to: 17 POB (WSQQU1) with duty at 4th POG, Ft. Bragg, NC

Purpose: In Support of Operation NOBLE EAGLE AND ENDURING FREEDOM

Period of Active Duty: 365 days; not to exceed two years

Will proceed date: 14 JAN 02

Accounting Classification:

FY 2002-OMDA 9720100.56SA 0 50 5063 012974.8K 21T2/21T1 NNN9999TM0000QW62 S12102

LES8378TC35288

FY 2003-OMDA 9730100.56SA 0 50 5063 012974.8K 21T2/21T1 NNN9999TM0000QW62 S12102

LES8378TC35288

Security Clearance: SECRET

CJCS Project Code: NRI

Additional instructions:

(a) This is not a permanent change of station (PCS). Normal PCS entitlements and allowances and relocation of family members are not authorized. (b) Special storage of HHGS may be authorized IAW JFTR PARA 4770. Contact local transportation office for assistance. Soldiers on TDY orders in support of OPERATION ENDURING FREEDOM are authorized shipment of TCS weight allowance for household goods required for personal use, comfort, and well being. Weight allowance is in accordance with Para U4710, Joint Federal Travel Regulation. (c) Travel by POV is authorized. (d) Transport of privately owned weapons is not authorized. (e) Soldier readiness processing will be accomplished prior to arrival at Ft. Bragg PER AR 600-8-101, (level 1-4). (f) Government quarters and dining facilities will be used at the replacement activity and during deployment. (g) During period of deployment, gaining/deployed Unit Commander has responsibility for personnel service support to include awards and decorations, UCMJ and all other forms of personnel and legal administration authority except reserve component promotions. (h) For active duty soldiers, including active guard/reserve, variable housing allowance (VHA) is based upon their permanent duty station. For reserves and retired members called or ordered to active duty for more than 139 days in support of operation, VHA is based on their principle place of residence when called or ordered to the tour of active duty if denied movement of dependents and HHG. (i) Soldier may submit interim travel voucher if otherwise entitled to documents to support payments/request for payments. (j) Soldiers deploying as a result of individual tasking will be provided with their new mailing address as soon as possible upon arrival in the theater of operations. Family separation allowance-II (FSA-II) paid to all soldiers with dependents and who are TDY outside the United States for more than 30 days. Enlisted soldiers and officers soldiers are entitled to basic allowance for subsistence (BAS). (k) Duty uniform will be BDU's (n) Soldier must be returned to Ft. Bragg upon completion of TCS for redeployment / demobilization processing. (l) Travel by commercial aircraft for deployment and redeployment is authorized. Soldier is authorized a total of 4 pieces checked baggage, this includes OCIE/CIF issue. Duffel bag cannot exceed 70lbs or 62 linear inches (ex: 3-duffel bags/1 rucksack or 4 duffel bags). Authorized one carry on bag not to exceed 45 linear inches. Excess baggage is authorized.

Format: 401

FOR THE COMMANDER:

* OFFICIAL *
* FORT BRAGG NC *

R. ALAN KING
Chief, Reserve Personnel
Division

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1 - Cdr, MUIC, Fort Bragg